

PATENT  
USSN 10/054,295  
Docket 002990US; 018/184

### REMARKS

This paper is responsive to the Office Action dated October 21, 2003, which is the first action on the merits of the application.

Claims 1-14 were previously pending in the application, and stand variously rejected. Upon entry of this paper into the prosecution file, certain claims are amended, and claims 15-20 are added.

Further consideration and allowance of the application is respectfully requested.

#### Claim amendments:

Entry of the claim amendments does not introduce new matter into the disclosure. Support for the new claims may be found in the claims as previously presented, and throughout the specification. Support for the hybridization conditions recited in claim 1 can be found in the specification as filed and published (US 2003/0044953 A1) *inter alia* on paragraphs [0124] and [0125], page 9. Support for the pharmaceutical carrier recited in claim 19 can be found in paragraph [0245], page 20.

The new claims cover expression vectors comprising a nucleic acid that encodes a protein with telomerase reverse transcriptase (TRT). This is the same subject category as claims 1-14. The new claims protect vectors encoding SEQ. ID NO:225, and functional fragments thereof. SEQ. ID NO:225 is encoded by SEQ. ID NO:224. Accordingly, the new claims can be examined together with the previously presented claims without imposing an undue burden on the Examiner.

#### Objection

Claim 9 has been amended in accordance with the recommendation in the Office Action. Applicants are grateful to the Examiner for discovering this error.

#### Rejection under 35 USC § 112:

Claim 1 stands rejected under § 112 ¶ 2 as being unclear as to whether the variant should also have telomerase activity. Claim 1 also stands rejected under § 112 ¶ 2 for not reciting hybridization conditions.

Applicants respectfully disagree, since a skilled reader will know clearly and distinctly what is meant by "stringent conditions", in view of what is common general knowledge in the art and the information on hybridization reactions given in the specification.

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Nevertheless, to expedite allowance of the application, claim 1 has been amended to explicitly incorporate the stringent hybridization conditions into the claim. The limitation was previously inherent in the claim, and the claim as amended covers equivalents to which it was previously entitled.

Withdrawal of this rejection is respectfully requested

Double patenting

Claims 1-10 stand rejected under the doctrine of obviousness-type double patenting with respect to U.S. Patent No. 6,261,836.

Claims 11-14 stand rejected under the doctrine of obviousness-type double patenting with respect to U.S. Patent Nos. 6,261,836 and 6,465,789.

These rejections are acknowledged. Applicants hereby undertake to file Terminal Disclaimers that disclaim any patent term that exceeds that of the cited patents are enclosed herewith, or take other appropriate action, upon indication that the application is otherwise in condition for allowance.

Withdrawal of these rejections is respectfully requested.

Request for Interview

Applicants respectfully request that all outstanding rejections be reconsidered and withdrawn. The application is believed to be in condition for allowance, and a prompt Notice of Allowance is requested.

In the event that the Examiner determines that there are other matters to be addressed, applicants hereby request an interview by telephone.


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Fees Due

No fee is required with respect to the amendments to the claims. Authorization to charge the Deposit Account with the fee for the extension of time is enclosed herewith.

Should the Patent Office determine that a further extension of time or any other relief is required for further consideration of this application, applicants hereby petition for such relief, and authorize the Commissioner to charge the cost of such petitions and other fees due in connection with the filing of these papers to Deposit Account No. 07-1139, referencing the docket number indicated above.

Respectfully submitted,



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*Facsimile Transmittal Sheet*

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